IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7642 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HARISHCHANDRA R KALOTRA

Versus

C U SHAH POLYTECHNIC

Appearance:

1. Special Civil Application No. 7642 of 1995

MR DD VYAS for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

Mr. H.M. Prachhak AGP for Respondent No. 2

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 13/12/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the

Constitution of India is filed by the petitioner seeking a direction from this Court to the respondents to allow the petitioner to resume duties as Store Keeper by issuing an appropriate appointment order, and a further direction is sought to restrain the respondents from appointing or filling up the vacancy in question by any other candidate, except the petitioner.

2. It is the case of the petitioner that the petitioner was duly qualified to be appointed for the post of Store Keeper and he had undergone necessary selection procedure undertaken by the respondent No.1, subject to final approval by the respondent No.2. According to the petitioner, the petitioner was selected and, along with the requisite papers, the case of the petitioner was sent by the respondent No.1 to the respondent No.2 for issuance of appointment orders. At the relevant point of time, according to the petitioner, he was duly qualified and having requisite qualification as per the requirement for appointment to the post of Store Keeper. The certificates with regard to the qualification of the petitioner were scrutinized by the respondent No.1 and the petitioner was thus eligible for appointment to the post of Store Keeper.

3. It is contended by the learned advocate for the petitioner that, though the petitioner was duly qualified and successfully cleared the procedure in the interview for selection, finally, no appointment order was issued, and, it was apprehended that, in place of the petitioner, other candidate was to be appointed by the respondents, and, based on such apprehension, the petitioner has filed the present writ petition under Article 226 of the Constitution of India against the alleged arbitrary action of the respondents.

4. Affidavit-in-reply is filed by the Joint Director of Technical Education, Gandhinagar, respondent No.2 herein, opposing the claim of the petitioner on the ground that, so far as the claim of the petitioner is concerned, it is only qua the recommendation of the respondent No.1 selecting the petitioner for the post of Store Keeper and, ultimately, it was subject to the final approval by the respondent no.2. It is averred in the affidavit-in-reply that the petitioner is not entitled to appointment for the post in question only because he had undergone the interview, and a mere selection does not confer any enforceable right in favour of the petitioner for being appointed. So far as non-approval of the candidature of the petitioner for appointment to the post of Store Keeper is concerned, it is submitted that, on

administrative reasons, the respondent No.2 had decided not to proceed further with the recommendation of the selection made by the respondent No.1, who was only authorized to conduct the interview on behalf of the respondent No.2. It is further averred in the affidavit-in-reply, and submitted by the learned Assistant Government Pleader, that the process of selection was already cancelled. Therefore, according to the learned Assistant Government Pleader, the action of the respondents cannot be said to be arbitrary or unreasonable or violative of Article 14 of the Constitution of India, since a selectee has no right in the matter of appointment, unless it is crystallized by an order of appointment.

5. I have heard the learned advocates for the parties. I do not find any merit in the submission of the learned advocate for the petitioner that the denial to appointment was arbitrary or unreasonable. It is well settled law that a selectee has no vested right qua appointment unless otherwise it is shown that the procedure of selection was vitiated with mala fides or the same was contrary to the Rules. In the present case, the respondents have cancelled the selection process on administrative reasons and even, at the relevant point of time, no other candidate was considered and the apprehension of the petitioner was not well founded. Therefore, this is not a fit case where the power under Article 226 of the Constitution of India can be exercised. No other contention is raised.

6. In the result, the petition fails, and is rejected. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)